THE HON'BLE MS JUSTICE G. ROHINI

WRIT PETITION NO.1776 of 2006

Dated 09-03-2006

Between:

Nekkanti Lakshmi.

….Petitioner

and

The Regional Joint Commissioner of Endowments,

Hyderabad, and two others.

..Respondents

THE HON'BLE MS JUSTICE G. ROHINI

WRIT PETITION NO.1776 of 2006

ORDER:

The petitioner claims to be the legal representative of one Smt. Eali Satyavathi, who claimed title to the house built over the land admeasuring 127 sq. yards in T.S.No.1289/1/A at Devi Chowk, Rajahmundry. It is stated that the said Satyavathi died on 08-11-2005 leaving behind the petitioner as her sole legal heir and that by virtue of a gift deed executed by her during her life time, the petitioner is entitled to claim title and possession of the premises in question. It is not in dispute that the third respondent-Math, claiming that the premises in question belongs to it, filed O.A.No.38 of 1996 under the provisions of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987, (hereinafter referred to as 'the Act') seeking recovery of possession of the premises in question. O.A.No.38 of 1996 was allowed by the Deputy Commissioner of Endowments, Kakinada, by order dated 26-02-2002, directing eviction of Smt. Satyavathi from the premises in question. Aggrieved by the same, she preferred a revision petition being R.P.No.215 of 2004 before the first respondent-Regional Joint Commissioner. Pending the revision petition, she filed W.P.No.24234 of 2004 for a Mandamus declaring the action of the respondents in seeking to evict her from the premises in question and to direct the respondents not to interfere with her right and possession over the said premises, which was disposed of by this Court by order dated 27-12-2004, granting Mandamus as prayed for and directing her to deposit rent at Rs.500/- per month commencing from 01-12-2004. The R.P.No.215 of 2004 was dismissed by the first respondent by order dated 23-05-2005. Though the first respondent held that the revision petition is not maintainable and the appropriate remedy for revision petitioner was to institute a civil suit as per Section 84 (2) of the Act, it was further observed that since the High Power Committee has taken a decision to regularize the encroachments by sale in favour of the occupants at basic value and the Government has

already issued orders to that effect, the revision petitioner was at liberty to approach the Manager of the third respondent-Math and the Deputy Commissioner duly giving her consent to purchase the site under her occupation. Whereas the said order was passed on 23-05-2005, the revision petitioner-
Smt. Satyavathi died on 08-11-2005. Thereafter, the petitioner who claims to have acquired title by virtue of a gift deed executed by Smt. Satyavathi, filed an application on 30-11-2005 before the second respondent-Deputy Commissioner of Endowments in terms of the order dated 23-05-2005. The grievance of the petitioner is that the respondents 2 and 3 did not receive the said application, but are taking steps to evict the petitioner from the premises in question. Hence, this writ petition.

In the counter-affidavit filed on behalf of the respondents
2 and 3, the fact that the petitioner made such an application dated 30-11-2005 has not been disputed, however it is stated that since the petitioner is not a party to R.P.No.215 of 2004 and W.P.No.24234 of 2004 and since she is not the legal heir of the deceased Satyavathi, she had no right or title over the property in question. The first respondent also filed a separate counter-affidavit on the same lines.

Since there is no dispute about the fact that the petitioner made the application dated 30-11-2005 and since it is also clear from the material on record that the first respondent while dismissing the revision petition filed by Smt. Satyavathi granted liberty to her to make an appropriate application for regularization of her possession and the petitioner claims to be the legal heir of Smt. Satyavathi, I am of the opinion that the respondents 1 to 3 ought to have received the application and ought to have passed appropriate orders in accordance with law. The respondents 1 to 3 in not receiving the application merely on the ground that the petitioner was not a party to R.P.No.215 of 2004 are not justified.

Accordingly, the writ petition is disposed of with a direction to the respondents 2 and 3 to receive the application made by the petitioner

and to consider the same along with the rival claim made by the respondent No.4 and pass appropriate orders in accordance with law as expeditiously as possible preferably within a period of four weeks from the date of receipt of a copy of this order. Till such time, *status quo* obtaining as on today as to the nature and possession of the property in question shall be maintained. No costs.

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(G. ROHINI, J)

Date: 09-03-2006

ghn